



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request to Join in Amicus Brief in the case of Alford v. Superior Court (San Diego County), California Supreme Court.

MEETING DATE: November 7, 2001

PREPARED BY: Randall A. Hays, City Attorney

RECOMMENDATION: That the City join the Amicus Brief in the case of Alford v. Superior Court (San Diego County), California Supreme Court.


BACKGROUND: Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

This case involves the interpretation of California Evidence Code §1045. This particular section sets forth the manner in which the records of police officers are available to criminal defendants in preparing their defense in a particular matter. Under that section, what is called a pitchess motion must be made in order for the court to be able to review in camera police officer personnel files. Then if a court finds that something of value is contained in the files that meets the requirement for disclosure, the court then makes the disclosure. Additionally, the section requires that if information is to be disclosed then the court is to issue a protective order which requires that any discovered material may not be used for any purpose other than a court proceeding pursuant to applicable law. The Court of Appeal from which this petition for review by the Supreme Court emanates, found that there was discloseable material in police officer's files and that of necessity, a protective order regarding that information was to issue. The California Supreme Court has accepted a petition of review on that Court of Appeal decision. In the granting of the petition for review the Supreme Court has framed very narrowly the issues on appeal. The statement from the Supreme Court is as follows: The issues to be briefed and argued shall be limited to whether Evidence Code §1045 (e) limits use of information disclosed pursuant to a pitchess motion to the proceeding in which disclosure was sought and whether the prosecutor has standing to be heard in such proceedings and to obtain information disclosed to the defense pursuant to such motion.

The Court of Appeal decision in Alford should be upheld by the Supreme Court as it provide protection of the limited use of police personnel files. It is critical for the Supreme Court to preserve the Court's narrow interpretation of the protections provided by California Evidence Code 1045. Supporters of this brief request include currently the California State Sheriff's Association, the California Peace Officer's Association and the California Police Chief's Association.

Funding: Not applicable.

Respectfully submitted,


Randall A. Hays, City Attorney

APPROVED: _____


H. Dixon Flynn -- City Manager